

09:23 1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF TEXAS
3 DALLAS DIVISION

4 UNITED STATES OF AMERICA (NUMBER 3: 04-240-G
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8 HOLY LAND FOUNDATION, ET AL. (August 27, 2007

9 VOLUME 20
10 TRANSCRIPT OF TRIAL
11 BEFORE THE HONORABLE A. JOE FISH

12 A P P E A R A N C E S:

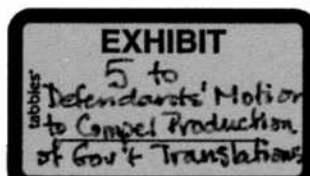
13 For the Government: MR. JIM JACKS
14 MR. BARRY JONAS
09:23 15 MS. ELIZABETH SHAPIRO
16 MR. NATHAN GARRETT
17 Assistant United States Attorney
18 UNITED STATES DEPARTMENT OF JUSTICE
19 NORTHERN DISTRICT OF TEXAS
20 U.S. Courthouse
21 1100 Commerce Street
22 Dallas, Texas 75242
23 214/659-8600

24 For the Defendants Holy Land and Shukri Baker:

25 MS. NANCY HOLLANDER
MS. TERESA DUNCAN
26 FREEDMAN BOYD DANIELS
27 HOLLANDER
28 20 First Plaza, Suite 700
29 Albuquerque, NM 87102
30 505/842-9960

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14:54 1 A In Gaza.

2 Q And regarding Gaza, has your investigation
3 determined any reason why you might have difficulty
4 tracing money in Gaza?

5 A Yes.

6 Q And what is that?

7 A Some of the money that the Holy Land Foundation
8 was transferring out of its Gaza accounts was going to
9 money changers.

10 Q And before we get into that, the overseas
11 financial records that you indicated, have you reviewed
12 those?

13 A Yes.

14 Q And do those show destinations?

14:54 15 A They do.

16 Q Is there any information describing who that
17 designation is?

18 A No, it's generally just a name or a name of a
19 company or a person. Very few details other than that.

20 Q And do you have an ability to further
21 investigate in terms of the West Bank and Gaza, details
22 behind who these individuals are?

23 A Very limited.

24 Q Why is it very limited?

25 A The U.S. government has no formal relationship

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14:55 1 with the Palestinian Authority and has not had. So it's
 2 difficult to make -- There is no method by which we can
 3 make official requests for documents.

 4 Q You mentioned money changers. Have there been
 5 money changers identified in this case operating in Gaza?

 6 A Operating in the Territories, yes.

 7 Q And who are a they?

 8 A Fayez Abu Aker was one and Falah Herzallah and
 9 the Herzallah Money Exchange.

 10 Q And how were they identified?

 11 A As HAMAS money changers.

 12 Q And did your investigation determine whether the
 13 HLF sent any money to these money changers?

 14 A Yes.

14:56 15 Q And did you create a schedule reflecting this?

 16 A Yes.

 17 Q And drawing your attention to Government's
 18 Exhibit 20-63, do you have that in front of you?

 19 A I do.

 20 Q And is that a schedule reflecting payments to
 21 these money changers?

 22 A It is to one of them.

 23 MR. GARRETT: I would offer in evidence
 24 Government's Exhibit 20-63.

 25 MS. MORENO: Objection, your Honor, hearsay, no

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14:56 1 foundation, confrontation.

2 THE COURT: Let me be sure what I understand the
3 exhibit is, Mr. Garrett. This is another one of the
4 schedules that purports to summarize other documents in
5 evidence.

6 MR. GARRETT: Yes, sir. It's a summary of
7 financial transactions with the individuals that she just
8 identified.

9 THE COURT: I will overrule the objection
10 stated and admit into evidence Government's Exhibit 20-63.

11 BY MR. GARRETT:

12 Q Agent Burns, let me ask you by way of
13 clarification, the money that goes to the money changers,
14 does that money originate with the Holy Land Foundation in
14:57 15 America?

16 MS. CADEDDU: Objection, leading.

17 THE COURT: Sustained.

18 BY MR. GARRETT:

19 Q Where does the money end up from these
20 organizations?

21 A The Holy Land Foundation in the United States?

22 Q I say organizations. I meant money changers.

23 Page 1 of Government's Exhibit 20-63. Agent
24 Burns, can you describe what this schedule depicts.

25 A This depicts the money that we were able to

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14:58 1 trace out of the HLF foreign bank accounts to Fayez Abu
2 Aker.

3 Q And are these records you had at the time this
4 indictment was prepared?

5 A No.

6 Q Go ahead.

7 A The first transaction was February 25th, 1995.

8 Q And that's after -- right after HAMAS's initial
9 designation?

10 A Yes, about a month after the initial
11 designation.

12 MS. CAEDDU: Objection to leading.

13 THE COURT: Sustained.

14 BY MR. GARRETT:

14:58 15 Q And then the HAMAS designation, FTO, are there
16 transactions after that?

17 A There are.

18 Q Could you identify those?

19 A Beginning December 5th, 1998 through on the next
20 page December 5th, 2001.

21 Q Is that the time or around the time of the HLF's
22 closure in December of 2001?

23 A It's actually the day after.

24 Q Is there a total amount of money there that you
25 have total to do with those money changers?

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14:59 1 A \$392,869 and then Israeli shekels which would be
2 a quarter of that, 24,780.

3 Q I'll draw your attention to the next page.

4 A I believe the next one is 20-65.

5 MR. GARRETT: Your Honor, I would also offer at
6 this time a schedule with the Herzallah Money Changer,
7 Government's Exhibit 20-65.

8 MS. MORENO: Same objections, your Honor.

9 THE COURT: Same rulings. Overrule the
10 objections and admit into evidence Government's Exhibit
11 20-65.

12 BY MR. GARRETT:

13 Q Agent Burns, again, is HAMAS's designation
14 listed at the top?

15:00 15 A It is.

16 Q And what's the date of that?

17 A October 8, 1997.

18 Q And can you describe what's depicted on this
19 page of the schedule?

20 A Transactions from the Holy Land Foundation's
21 Arab Land Bank account in the Territories to Falah
22 Herzallah.

23 Q Is that the money changer you just identified?

24 A Yes.

25 Q Go ahead.

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15:00 1 A The first transaction is September 12th, 1998.

 2 Q Does it continue down the page?

 3 A It does. All the way through Page 9.

 4 Q And the dates, can you give us a range of dates?

 5 A Yes, again from September 12th, 1998, until

 6 August 2nd of 2000.

 7 Q Page 9 of that exhibit, does this reflect a

 8 total amount of money going to these money changers?

 9 A Yes, \$512,394.

 10 MR. WESTFALL: Your Honor, I think this use of

 11 the term "money changer" assumes facts not in evidence. I

 12 don't know that it's been proven what a money changer is

 13 or whether these gentlemen are money changers. He's just

 14 calling them a money changer. I think that assumes facts

15:01 15 not in evidence. I object.

 16 THE COURT: Overrule the objection but without

 17 prejudice to exploring that issue on cross examination.

 18 MR. WESTFALL: Thank you, your Honor.

 19 THE COURT: Mr. Garrett, let's take our

 20 mid-afternoon recess at this time. Ladies and Gentlemen,

 21 we'll be in recess until 3:20.

 22 (Recess)

 23 THE COURT: Go ahead, Mr. Garrett.

 24 BY MR. GARRETT:

 25 Q Agent Burns, when we broke we were talking about

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15:24 1 a Fayez Abu Aker Company and the Herzallah Exchange
2 Company. Do you recall that?

3 A Yes.

4 Q And specifically how were these people
5 identified by Mr. Avi?

6 A As HAMAS money changers.

7 MR. DRATEL: Objection under 615, your Honor.

8 THE COURT: Overruled.

9 BY MR. GARRETT:

10 Q You can answer.

11 A As HAMAS money changers.

12 Q And we were on the Herzallah Exchange Company.
13 Let me ask you generally is there any ability that you
14 have to trace this money after it goes to these money
15 changers?

15:24

16 A No.

17 Q Government's Exhibit 20-65, again, these dates
18 begin on what dates, Agent Burns?

19 A September 12, 1988.

20 Q And what was the date of HAMAS's designation?

21 A As a foreign terrorist organization, it was
22 October 8, 1997.

23 Q Now, let me draw your attention to Page 9 of 9.
24 Does that represent the total amount through 2000?

25 A Yes, the number at the bottom.

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15:25 1 Q Which is what?

2 A \$512,394.

3 Q And just by way of example, let me draw you back
4 to Page 2 of the document. And if you can highlight that
5 particular transaction. Now, it says destination to the
6 Herzallah Exchange, correct?

7 A Yes.

8 Q 19-0003, Page 2505. Page 2, please. And that
9 payee is who?

10 A The Herzallah Exchange Company.

11 Q Go to 94, please.

12 And the next page please. 2495. A check in the
13 amount of \$30,000. The payee is listed as what?

14 A Herzallah Exchange Company.

15:27 15 Q Draw your attention, Agent Burns, to the Islamic
16 Relief Committee. Is that a committee that you have
17 talked about in your testimony?

18 A Yes, it is.

19 Q And is that a committee that was talked about by
20 Mr. Avi?

21 A Yes.

22 Q Did you introduce documents in your first
23 testimony regarding programs of the Islamic Relief
24 Committee?

25 A Yes.

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